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6 Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 JOSE RODOLFO MORENO ALBESTRAIN,  
15 Defendant.

CASE NO. 2:21-CR-188-DJC

STIPULATION REGARDING EXCLUDABLE  
TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER

DATE: December 7, 2023  
TIME: 9:00 a.m.  
COURT: Hon. Daniel J. Calabretta

## STIPULATION

18 Plaintiff United States of America, by and through its counsel of record, and defendant Jose  
19 Rodolfo Moreno Albestrain, by and through his counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for status on December 7, 2023.
2. By this stipulation, defendant now moves to continue the status conference until February 1, 2024, and to exclude time between December 7, 2023, and February 1, 2024, under Local Code T4.
3. The parties agree and stipulate, and request that the Court find the following:
  - a) The government has represented that the discovery associated with this case includes more than 650 pages of investigative reports and other documents, as well as numerous audio and video recordings. All of this discovery has been either produced directly to counsel and/or made available for inspection and copying.

b) Counsel for defendant desires additional time to review the discovery, conduct factual investigation, evaluate the charges in this case and potential defenses and resolutions, consult with his client, and otherwise prepare for trial. In addition, counsel for defendant is scheduled to begin a criminal trial in another case in Placer County in the next couple weeks.

c) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the continuance.

e) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of December 7, 2023 to February 1, 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

## IT IS SO STIPULATED.

Dated: December 4, 2023

PHILLIP A. TALBERT  
United States Attorney

/s/ DAVID W. SPENCER  
DAVID W. SPENCER  
Assistant United States Attorney

1 Dated: December 4, 2023

/s/ David D. Fischer

2 David D. Fischer  
3 Counsel for Defendant  
4 JOSE RODOLFO MORENO  
5 ALBESTRAIN

6 **ORDER**

7 IT IS SO FOUND AND ORDERED this 5th day of December, 2023.

8

9 Dated: December 5, 2023

/s/ Daniel J. Calabretta

10 THE HONORABLE DANIEL J. CALABRETTA  
11 UNITED STATES DISTRICT JUDGE